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MAY 18 1998

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Connecticut Department of Public  
Utility Control Petition for Rulemaking

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DA 98-743  
(~~Room~~ No. 9258)

RM-9258

**REPLY COMMENTS OF SPRINT SPECTRUM L.P. D/B/A SPRINT PCS**

Sprint Spectrum L.P. d/b/a Sprint PCS ("Sprint PCS") hereby submits its reply comments in support of the initial comments to the above-captioned Petition.

**Introduction**

The overwhelming majority of commenters oppose the request by the Connecticut Department of Public Utility Control ("DPUC") to permit service-specific area code overlays.<sup>1</sup> Most agree that there has been no change in circumstances since the Commission originally prohibited service-specific area code overlays warranting a change in the rule.<sup>2</sup> Commenters noted that wireless carriers utilize numbering resources more efficiently than their wireline counterparts<sup>3</sup> making the benefit to be derived from

<sup>1</sup> See e.g., Comments of Air Touch Communications at 1; AT&T Wireless at 1; BellSouth at 1; Cellular Telecommunications Industry Association ("CTIA") at 1; GTE at 1; MCI at 1; Northcoast communications, LLC at 1; Paging Network, Inc. at 1; SBC Wireless, Inc. at 1; SNET Cellular at 1; Teleport Communications Group Inc. ("TCG") at 1; TSR Wireless LLC at 1; United States Telephone Association ("USTA") at 1; Vanguard Cellular Systems, Inc. at 1.

<sup>2</sup> See Comments of SBC at 5; Pagenet at 7; Northcoast at 1; SNET at 8; USTA at 3.

<sup>3</sup> See Comments of CTIA at 10-11; AirTouch at 4 (reporting its utilization rate to be 80%); PCIA at 4 (reporting that usage rates of numbers by wireless carriers are as high as 80%); PageNet at 4.

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implementing a service-specific overlay minimal.<sup>4</sup> In fact, as some, including Sprint PCS, noted, wireless carriers are not the primary cause of number exhaust and so, placing the entire burden of area code relief upon this segment of the telecommunications industry is patently unfair.<sup>5</sup> Further, many commenters recognized that the discriminatory effects of service-specific overlays result in disproportionate burdens being placed upon wireless carriers and subscribers,<sup>6</sup> a result which is not consistent with the Commission's goal to promote competition through non-discriminatory numbering administration.<sup>7</sup> The DPUC has failed to present sufficient evidence that it considered other equally effective methods of addressing area code exhaustion than the service specific overlay.<sup>8</sup>

**I. There Has Been No Change In Circumstances Since The Commission's Original Ruling In Which It Prohibited Service-Specific Overlays That Warrants An Amendment Of The Rule.**

As noted above, the record in this proceeding reflects a consensus among a diverse group of carriers that the Commission should continue to prohibit service-specific overlays. Like Sprint PCS, most commenters agreed that the rules announced in the *Ameritech Order*<sup>9</sup> and further clarified in the *Second Report and Order*<sup>10</sup> should be

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<sup>4</sup> See SBC at 8; CTIA at 12.

<sup>5</sup> AirTouch at 2; Nextel at 4; PageNet at 3; SBC at 8.

<sup>6</sup> PageNet at 7; GTE at 11; CTIA at 5; AirTouch at 2, SBC at 6-9; AT&T at 8; NorthCoast at 4; SNET at 6.

<sup>7</sup> See generally CTIA at 3; Vanguard at 6.

<sup>8</sup> CTIA at 4 (when there is an opportunity to realize efficient allocation of numbering resources through nondiscriminatory means, the Commission should continue to prohibit discriminatory policies).

<sup>9</sup> Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech – Illinois, *Declaratory Ruling and Order*, IAD File No. 94-102, 10 FCC Rcd 4596 (1995).

<sup>10</sup> Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, *Second Report and Order and Memorandum Opinion and*

preserved.<sup>11</sup> It is well established that telephone numbers are essential resources to be shared fairly and equitably, and that without them, there can be no real competition.<sup>12</sup> However, as GTE and MCI correctly suggest, carriers do not have to be in direct competition to qualify for nondiscriminatory access to numbering resources.<sup>13</sup> The Commission has repeatedly endorsed fair and equal access to numbering resources as well as technology-blind area code relief that does not burden or favor a particular technology.<sup>14</sup> Regardless of whether current competition exists, the discriminatory impacts of service specific overlays on wireless carriers and their customers are disproportionately burdensome and should be prohibited.<sup>15</sup>

- A. A wireless-only overlay would not significantly contribute to area code relief because wireless carriers utilize numbering resources more efficiently than wireline carriers.

The comments support Sprint PCS' assertion that the causes of number exhaustion are not principally attributable to wireless carriers.<sup>16</sup> Thus, solutions that target only the wireless segment of the telecommunications market will not provide the level of relief that is needed to decelerate the depletion of numbering resources.<sup>17</sup> AT&T reported that wireless carriers account for only 10 - 14% of the assigned NXX codes in the existing Connecticut NPAs because wireless carriers are able to use NXXs over a

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*Order*, 11 FCC Rcd 193292.

<sup>11</sup> See *supra* note 1.

<sup>12</sup> See 47 C.F.R. §52.9(a)(1); see also comments of Personal Communications Industry Association ("PCIA") at 3; SBC at 2; MCI at 3; AT&T at 7; BellAtlantic at 4; CTIA at 5; Nextel at 3..

<sup>13</sup> MCI at 3; GTE at 7.

<sup>14</sup> MCI at 5; SNET at 6; GTE at 3; AT&T at 2, 15; BellAtlantic at 3; CTIA at 5.

<sup>15</sup> GTE at 12; Nextel at 4.

<sup>16</sup> AT&T at 14; PageNet at 3; CTIA at 10; USTA at 7.

<sup>17</sup> *Id.*

larger geographical area than wireline carriers.<sup>18</sup> USTA noted that based on the Connecticut filings of the Central Office Code Utilization Survey and the rapid rate of NXX code assignments, it is estimated that returning all wireless numbers would only relieve the demand on existing area codes for about one year.<sup>19</sup>

B. Service-specific overlays are anti-competitive and burden wireless carriers disproportionately.

As many commenters noted, the discriminatory impacts of service-specific overlays are unduly burdensome on wireless carriers and have anti-competitive effects.<sup>20</sup> Particularly troublesome to most commenters is the potential impact of 10-digit dialing and take-back.<sup>21</sup>

Sprint PCS disagrees with BellAtlantic and Vanguard to the extent they favor the elimination of take-back from any overlay proposal. Sprint PCS believes that unless there is universal take-back of existing numbers, new entrants, like Sprint PCS, will be unfairly disadvantaged by the incumbent carriers' ability to retain existing numbers in the "preferable" area code.

The FCC should not amend its overlay regulations requiring mandatory 10-digit dialing for every telephone call within and between all area codes in the geographic area

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<sup>18</sup> AT&T at 15; *see also* comment of CTIA at 11.

<sup>19</sup> USTA at 7.

<sup>20</sup> *See* comments of GTE at 11; SBC at 5; Pagenet at 7; Northcoast at 2, 4; CTIA at 5; AirTouch at 2; AT&T at 8; SNET at 6

<sup>21</sup> *See* AirTouch at 2; AT&T at 7; BellAtlantic at 7; Northcoast at 3; TSR at 8; Vanguard at 9.

covered by the overlay area code.<sup>22</sup> As most commenters observed, an overlay area code plan without mandatory 10-digit dialing is not competitively or technologically neutral.<sup>23</sup>

As noted above, numbering resources are essential resources to be shared as fairly and as equitably as possible. An area code overlay plan in which there is 7-digit and 10-digit dialing discrimination fails to make those essential numbering resources available in a way that does not unduly favor one industry segment or technology.<sup>24</sup> The dialing disparity places an undue burden on new competitors while unfairly discriminating in favor of traditional wireline service technologies and incumbent cellular companies, where incumbents are “grandfathered” into the old area code allowing their customers to retain the “more desirable” numbers without any negative impacts.<sup>25</sup>

Dialing disparity not only creates customer confusion, but also has the anti-competitive effect of discouraging the migration of existing customers to new competitors.<sup>26</sup> Without mandatory 10-digit dialing, customers living in the same geographic area will be required to dial the new area code for calls terminated in their own neighborhood. Calls to the nearest local business, for example, may require the use

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<sup>22</sup> 47 CFR 52.19(c)(3).

<sup>23</sup> See comments of AirTouch at 2; AT&T at 7; BellAtlantic at 7; Northcoast at 3; TSR at 8; and Vanguard at 9.

<sup>24</sup> See comments of AT&T at 7 (wireless carriers would have not access to the more “desirable” numbers in the existing area code); *see also* PageNet at 7 (only wireless customers would be inconvenienced by the 10-digit dialing requirement which “‘would provide particular industry segments and groups of consumers an unfair advantage’”).

<sup>25</sup> See comments of PageNet at 3 (wireless only overlay would allow wireline service providers to continue operating with the “more desirable” existing area codes while experiencing no negative technical or financial impacts);

<sup>26</sup> See comments of AT&T at 7 (dialing disparity would make it considerably harder for wireless providers to attract and retain customers)

of a different area code.<sup>27</sup> A 10-digit penalty vs. a 7-digit privilege creates a strong disincentive for an existing customer who enjoys 7-digit dialing for any call in the current area code to switch to a new entrant in the wireless market (or landline, in the case of an all service overlay) that would only be able to offer 10-digit dialing. Imposing 10-digit dialing on new service providers and their customer may also reduce inbound calling, because people may associate 10-digit dialing with a toll call.

C. The DPUC failed to explore less burdensome alternatives to service-specific overlays.

Several commenters advance persuasive arguments in favor of exploring less burdensome solutions to the DPUC's proposal.<sup>28</sup> CTIA argues that the DPUC failed to balance the burdens of its proposal on wireless subscribers against less demanding solutions such as area code splits and all-service overlays, and states that "when, as here, there is an opportunity to realize efficient allocation of numbering resources through non-discriminatory means, the Commission should continue to prohibit the discriminatory numbering policies promoted in the Petition."<sup>29</sup> Sprint PCS agrees with SNET's recommendation that the DPUC implement either an all-services area code overlay or a geographic split that would place the burden of area code relief on all types of service carriers.<sup>30</sup>

Sprint PCS also agrees with PageNet that the DPUC should consider further rate consolidations as an alternative to the service-specific overlay. The Colorado Public

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<sup>27</sup> See SBC at 6 (suggesting, as an example, that a sole proprietor or small businessperson such as a plumber or other service provider who rely on wireless phones or pagers as their primary source of communication may find a wireless only NPA less attractive).

<sup>28</sup> See AirTouch at 3; CTIA at 4; PageNet at 9; SNET at 14; and Vanguard at 4.

<sup>29</sup> CTIA at 4.

Utilities Commission recently rejected a service-specific overlay proposal in favor of consolidating its rate center from 43 to 16.<sup>31</sup> The Colorado Commission found that consolidation “will improve the level of efficiency by which the public resource of NXX codes is used by local exchange carriers without impacting more than necessary the local calling area or the rate for basic local exchange service.”<sup>32</sup> The DPUC should consider a similar solution. The rate center regime and the inefficient use of numbers by wireline carriers are principal causes of area code exhaust.

## **II. Wireless Carriers Utilize Numbers More Efficiently Than Their Wireline Counterparts**

The basis for most of the arguments set forth by the group of commenters favoring the DPUC’s decision centered on the need for immediate relief from number exhaust allegedly caused by new entrants regardless of the disproportionate impacts upon wireless carriers.<sup>33</sup> Specifically, the Texas PUC, State Advocates and Ad Hoc Committee claimed that wireless carriers are largely responsible for the depletion of available NXX codes.<sup>34</sup> Moreover, the Ad Hoc Committee claimed that wireless carriers utilize numbers more inefficiently than their wireline counterparts.<sup>35</sup>

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<sup>30</sup> SNET at 14.

<sup>31</sup> *In the Matter of Rate Center Consolidation with the 303 Area Code, Creation of a Single Local Calling Area Defined As All Territory within the 303 Area Code, and Permissive 11 Digit Local Dialing*, Before the Public Utilities Commission of the State of Colorado, Decision No. C98-439, Adopted April 29, 1998.

<sup>32</sup> *Id.* at ¶D4.

<sup>33</sup> See Comments of Texas PUC at 6; Ad Hoc Committee at 6-8; State Advocates at 11 - 12; Omnipoint suggested that service-specific overlays could, if properly implemented, improve the administration and efficient use of numbering resources.

<sup>34</sup> Comments of Texas PUC at 6; Ad Hoc Committee at 2; and State Advocates at 7.

<sup>35</sup> Comment of Ad Hoc Committee at 5.

These claims are not supported by the facts.<sup>36</sup> CTIA, for example, provided a detailed explanation of how wireless and wireline carriers utilized NXX codes assigned from various rate centers in support of its conclusion that “wireless carriers are the most efficient users of telephone numbers.”<sup>37</sup> Because wireless carriers are capable of utilizing their numbering resources across a larger geographic area than wireline providers, there are fewer unused NXXs than there would be if a CLEC were covering the same area with the same number of subscribers.

The Texas PUC, State Advocates and Ad Hoc Committee favor a service-specific overlay because it would relieve wireline customers of area code relief burdens.<sup>38</sup> However, a service-specific overlay imposes identical burdens upon wireless carriers and subscribers at substantial costs.<sup>39</sup> The burdens of area code relief should not be imposed upon one segment of telecommunications carriers.<sup>40</sup>

The same group of commenters suggest that wireless carriers have not cooperated in the North American Numbering Council’s (NANC) efforts to implement local number

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<sup>36</sup> Comments of AirTouch at 4; CTIA at 10; Nextel at 4; PageNet at 3; PCIA at 4; and SBC at 8;

<sup>37</sup> CTIA at 10.

<sup>38</sup> See comments of Texas PUC at 5; State Advocates at 4 (affected customers are required to notify friends and businesses of the change, and must reprint stationary, advertising, etc., plus the cost of reprogramming network equipment); and Ad Hoc Committee at 11 (Businesses must reprint stationary and signage, and notify customers and may lose business if a customer cannot contact the company in order to transact business).

<sup>39</sup> See SBC at 5 (wireless carriers would be required to contact each customer, reprogram the handset and load the new number into the billing system at an approximate cost of \$50 per subscriber); SNET at 12 (estimates \$50 per subscriber for reprogramming); AT&T at 8 (wireless only overlay is the most costly option, causes the highest level of customer confusion, disruption and inconvenience); and Northcoast at 3 (reprogramming each phone is burdensome).

<sup>40</sup> See comments of Nextel at 4; Northcoast at 3; and SNET at 11.

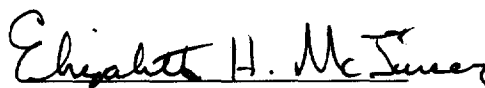


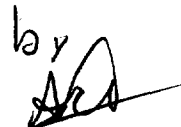
portability(LNP).<sup>41</sup> This is also inaccurate. As GTE explained, "the different implementation schedules [for LNP] exist only because wireless number portability presents more complex implementation issues than wireline number portability."<sup>42</sup> The Commission and the NANC have recognized the peculiarities associated with wireless LNP, and have taken steps to address them. Sprint PCS supports the position taken by those commenters advising the Commission to refrain from taking any action in this proceeding which will jeopardize or delay the progress of the NANC.<sup>43</sup>

### Conclusion

For the reasons stated herein, Sprint PCS urges the Commission to reject the Connecticut DPUC's Petition and maintain its current overlay policy as articulated in the *Ameritech Order* and the *Second Report and Order*.

Respectfully submitted,

  
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by  


May 18, 1998

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<sup>41</sup> See comments of Texas PUC at 6 ("The inability or unwillingness of wireless carriers to implement LNP sooner will prevent them from participating in number pooling . . ."); Ad Hoc at 8 (wireless carriers "have simply elected not to make the necessary investments in equipment" for LNP); State Advocates at 8 (suggesting that since wireless carriers will not have LNP solutions available when wireline providers do, wireless-only area codes be implemented to accommodate their inability to conserve numbers).

<sup>42</sup> GTE comment at 9; see SNET at 8-9 ("The deadline for wireless LNP is later than that for wireline because the technical issues associated with the mobility of the customer and the need to maintain nationwide roaming capabilities make the implementation of wireless LNP technically difficult").

<sup>43</sup> See comments of AT&T at 16; SNET at 10.